

DO

FR-4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. AB 1237 (Sub-No. 1X)]

New Hampshire Department of Transportation—Abandonment Exemption—Between Littleton, N.H., and Bethlehem, N.H.

New Hampshire Department of Transportation (NHDOT) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 6.86 miles of rail line located between milepost C113, station 995+66, at Industrial Drive in Littleton, N.H., and milepost C119.86, station 1359+77, a point 3.35 miles east of the Littleton/Bethlehem, N.H., town line (the Line).<sup>1</sup> The Line traverses U.S. Postal Service Zip Codes 03561 and 03574.

NHDOT has certified that: (1) no rail traffic has moved over the Line for at least two years; (2) there is no overhead traffic on this Line; (3) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in

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<sup>1</sup> NHDOT filed its verified notice of exemption on January 28, 2019. The verified notice initially did not include a certification that NHDOT had complied with the notice requirements of 49 C.F.R. § 1105.11 (environmental report). See 49 C.F.R. § 1152.50(d)(2). On March 11, 2019, NHDOT supplemented its verified notice with a certification that it served its environmental report on the agencies identified in 49 C.F.R. § 1105.7(b) on February 26, 2019. Accordingly, NHDOT's verified notice is considered to have been filed on March 18, 2019, 20 days after NHDOT served its environmental report on the required agencies.

favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies), and 49 C.F.R. §§ 1105.7 and 1105.8 (environment and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)<sup>2</sup> has been received, this exemption will be effective on May 5, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>4</sup> and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by April 15, 2019.

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<sup>2</sup> The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,800. See 49 C.F.R. § 1002.2(f)(25).

Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by April 25, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NHDOT's representatives: Allison B. Greenstein, Assistant Attorney General, Transportation & Construction Bureau, 33 Capitol Street, Concord, NH 03301-6397; and Jack E. Dodd, Rail Business Consultant, 73 Bishop Street, Saint Albans, VT 05478.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NHDOT has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 12, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NHDOT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by

NHDOT's filing of a notice of consummation by April 5, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: April 2, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.